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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/986,452

11/08/2001

Yehuda Hershkovits

P-3864-US

5080

27130

7590

07/28/2006

EITAN, PEARL, LATZER & COHEN ZEDEK LLP  
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NEW YORK, NY 10020

EXAMINER

SWERDLOW, DANIEL

ART UNIT

PAPER NUMBER

2615

DATE MAILED: 07/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notice of Abandonment**

Application No.

09/986,452

Examiner

Daniel Swerdlow

Applicant(s)

HERSHKOVITS ET AL.

Art Unit

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 04 April 2005.
  - (a) ☒ A reply was received on 14 July 2005 (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.  
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☒ A reply was received on 14 July 2005 but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b) ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:  
  
See attachment.



Daniel Swerdlow  
Primary Examiner  
Art Unit: 2615

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

The response filed on 14 July 2005 to the Office action mailed on 4 April 2005 did not include payment for the requested extension of time. As such, there is no extension of time and the application is abandoned as of 5 July 2005.

Even if payment had been made with the extension of time requested on 14 July 2005, applicant has failed to acceptably respond to the second Notice of Noncompliant Amendment mailed on 5 December 2005. As stated in the notice of Failure to Acceptably Respond to a Notice of Non-Compliant Amendment mailed on 10 May 2006, the response filed on 5 January 2006 was noncompliant. The response filed on 5 June 2006 was also noncompliant at least due to improper use of single brackets for deletion in the claims.

Furthermore, the response filed on 5 June 2006 did not include a request for extension of the 1-month reply period for the Notice of Noncompliant Amendment mailed on 5 December 2005 or any payment therefor.

The application is abandoned in view of any one of these three circumstances.

A handwritten signature in black ink, appearing to read 'Daniel Swerdlow', is positioned above the printed name.

Daniel Swerdlow  
Primary Examiner  
Art Unit 2615

ds  
7 July 2006